

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

SESSION LAW 2013-387
SENATE BILL 321

AN ACT TO CAP REIMBURSEMENT BY COUNTIES, TO MAKE ADDITIONAL PROVISIONS RELATING TO PAYMENT FOR MEDICAL SERVICES PROVIDED TO INMATES IN COUNTY JAILS, TO ALLOW COUNTIES TO UTILIZE MEDICAID FOR ELIGIBLE PRISONERS, TO PROVIDE THAT VACANCIES IN THE OFFICE OF DISTRICT COURT JUDGE SHALL BE FILLED BY APPOINTMENT OF THE GOVERNOR, AND TO CREATE A PRIVATE RIGHT OF ACTION AGAINST NOTARIES WHO VIOLATE THE NOTARY PUBLIC ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 10 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-225.2. Payment of medical care of prisoners.

(a) Counties shall reimburse those providers and facilities providing requested or emergency medical care outside of the local confinement facility the lesser amount of either a rate of seventy percent (70%) of the provider's then-current prevailing charge or two times the then-current Medicaid rate for any given service. Each county shall have the right to audit any provider from whom the county has received a bill for services under this section but only to the extent necessary to determine the actual prevailing charge to ensure compliance with this section.

(b) Nothing in this section shall preclude a county from contracting with a provider for services at rates that provide greater documentable cost avoidance for the county than do the rates contained in subsection (a) of this subsection or at rates that are less favorable to the county but that will ensure the continued access to care.

(c) The county shall make reasonable efforts to equitably distribute prisoners among all hospitals or other appropriate health care facilities located within the same county and shall do so based upon the licensed acute care bed capacity at each of the hospitals located within the same county. Counties with more than one hospital or other appropriate health care facility shall provide semiannual reports conspicuously posted on the county's Web site that detail compliance with this section, including information on the distribution of prisoner health care services among different hospitals and health care facilities.

(d) For the purposes of this section, "requested or emergency medical care" shall include all medically necessary and appropriate care provided to an individual from the time that individual presents to the provider or facility in the custody of county law enforcement officers until the time that the individual is safely transferred back to the care of county law enforcement officers or medically discharged to another community setting, as appropriate."

SECTION 2. G.S. 153A-225(a) reads as rewritten:

"(a) Each unit that operates a local confinement facility shall develop a plan for providing medical care for prisoners in the facility. ~~The plan~~plan:

- (1) Shall be designed to protect the health and welfare of the prisoners and to avoid the spread of contagious disease;
- (2) Shall provide for medical supervision of prisoners and emergency medical care for prisoners to the extent necessary for their health and welfare;
- (3) Shall provide for the detection, examination and treatment of prisoners who are infected with tuberculosis or venereal ~~diseases~~diseases; and
- (4) May utilize Medicaid coverage for inpatient hospitalization or for any other Medicaid services allowable for eligible prisoners, provided that the plan includes a reimbursement process which pays to the State the State portion



of the costs, including the costs of the services provided and any administrative costs directly related to the services to be reimbursed, to the State's Medicaid program.

The unit shall develop the plan in consultation with appropriate local officials and organizations, including the sheriff, the county physician, the local or district health director, and the local medical society. The plan must be approved by the local or district health director after consultation with the area mental health, developmental disabilities, and substance abuse authority, if it is adequate to protect the health and welfare of the prisoners. Upon a determination that the plan is adequate to protect the health and welfare of the prisoners, the plan must be adopted by the governing body.

As a part of its plan, each unit may establish fees of not more than twenty dollars (\$20.00) per incident for the provision of nonemergency medical care to prisoners. In establishing fees pursuant to this section, each unit shall establish a procedure for waiving fees for indigent prisoners."

SECTION 3. In preparation for the effective date of Section 2 of this act, the Department of Health and Human Services, Division of Medical Assistance, shall work with the North Carolina Association of County Commissioners to prepare for G.S. 153A-225(a)(4), as enacted by Section 2 of this act. The Department of Health and Human Services, Division of Medical Assistance, shall use a uniform method, developed by the North Carolina Association of County Commissioners, which will allow all counties to interface with the Division of Medical Assistance to implement this act. The Department of Public Safety shall provide technical assistance as needed.

SECTION 4. G.S. 7A-142 reads as rewritten:

"§ 7A-142. Vacancies in office.

A vacancy in the office of district judge shall be filled for the unexpired term by appointment of the ~~Governor~~ Governor. The bar of the judicial district, as defined in G.S. 84-19, shall nominate five persons who are residents of the judicial district who are duly authorized to practice law in the district for consideration by the Governor. The nominees shall be selected by vote of only those bar members who reside in the district. In the event fewer than five persons are nominated, upon providing the nominations to the Governor, the bar shall certify that there were insufficient nominations in the district to comply with this section. Prior to filling the vacancy, the Governor shall give due consideration to the nominations provided by the bar of the judicial district.~~from nominations submitted by the bar of the judicial district as defined in G.S. 84-19, except that in judicial District 9, when vacancies occur in District Court District 9 or 9B, only those members who reside in the district court district shall participate in the selection of the nominees. When vacancies occur in District Court District 18, all members who reside in the district court district shall participate in the selection of the nominees. If the district court district is comprised of counties in more than one judicial district, the nominees shall be submitted jointly by the bars of those judicial districts, but only those members who reside in the district court district shall participate in the selection of the nominees. If the district court judge was elected as the nominee of a political party, then the district bar shall submit to the Governor the names of three persons who are residents of the district court district who are duly authorized to practice law in the district and who are members of the same political party as the vacating judge; provided that if there are not three persons who are available, the bar shall submit the names of two persons who meet the qualifications of this sentence. If the district court judge was not elected as the nominee of a political party, then the district bar shall submit to the Governor the names of three persons who are residents of the district court district and who are duly authorized to practice law in the district; provided that if there are not three persons who are available, the bar shall submit the names of two persons who meet the qualifications of this sentence. Within 60 days after the district bar submits nominations for a vacancy, the Governor shall appoint to fill the vacancy. If the Governor fails to appoint a district bar nominee within 60 days, then the district bar nominee who received the highest number of votes from the district bar shall fill the vacancy. If the district bar fails to submit nominations within 30 days from the date the vacancy occurs, the Governor may appoint to fill the vacancy without waiting for nominations."~~

SECTION 5. G.S. 10B-60(g) reads as rewritten:

"(g) For purposes of enforcing this Chapter and Article 34 of Chapter 66 of the General Statutes, the following provisions are applicable:

- (1) ~~the law~~ Law enforcement agents of the Department of the Secretary of State have statewide jurisdiction and have all of the powers and authority of law enforcement officers. The agents have the authority to assist local law enforcement agencies in their investigations and to initiate and carry out, on their own or in coordination with local law enforcement agencies, investigations of violations.
- (2) Any party to a transaction requiring a notarial certificate for verification and any attorney licensed in this State who is involved in such a transaction in any capacity, whether or not the attorney is representing one of the parties to the transaction, may execute an affidavit and file it with the Secretary of State, setting forth the actions which the affiant alleges constitute violations. Upon receipt of the affidavit, law enforcement agents of the Department shall initiate and carry out, on their own or in coordination with local law enforcement agencies, investigations of violations."

SECTION 6. Sections 1 and 3 of this act become effective September 1, 2013. Section 2 of this act becomes effective July 1, 2014. Section 5 of this act is effective when it becomes law and applies to notarial acts and omissions occurring on or after that date. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 26th day of July, 2013.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Thom Tillis
Speaker of the House of Representatives

s/ Pat McCrory
Governor

Approved 10:46 a.m. this 23rd day of August, 2013